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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,379	08/28/2003	Anthony J. Lamela	15315	7322

37414 7590 08/18/2005

CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
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EXAMINER

DUNN, DAVID R

ART UNIT PAPER NUMBER

3616

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/650,379	Applicant(s) LAMELA ET AL	
	Examiner David Dunn	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 8-22 is/are rejected.
- 7) ☒ Claim(s) 4-7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/28/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 8/28/2003 is acknowledged. See enclosed IDS form.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation "the second suspension beam", "the second front wheel", and "the second rear wheel". There is insufficient antecedent basis for this limitation in the claim. It is noted that these phrases are used in claim 10; however claim 16 does not depend from claim 10.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 8-11, 16, 17, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (4,962,821) in view of Tesker (5,290,201).

Kim disclose a skid steer vehicle comprising: a chassis (10; see Figure 1); an internal combustion engine (see column 3, lines 46-47); first and second hydraulic pumps (see column 5, lines 25-27); left and right side hydraulic motors (300), each motor drivingly coupled to both wheels on each side (see Figure 3). The pumps are fluidly coupled to each motor (see column 5, lines 25-27).

Kim fails to show side suspension beams pivotally coupled to the chassis at the central portion.

Tesker teaches a vehicle comprising side suspension beams ("oscillating wheel mounting housings" 60, 62; see Figure 2) being pivotally coupled to the chassis at a central portion (see Figure 2). The beams have front and rear wheels (24a, 24b, 26a, 26b) coupled thereto being driving by hydraulic motors (52, 54). Each hydraulic motor is mounted to each beam (similar to that of applicant's, such that the motors are mounted to the beam through the chassis). Tesker also teaches the use of a driveshaft (see Figure 6) coupled between the wheels with a bevel gear set (Figure 6). The wheels are on the same axis as the beams (see Figure 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kim with the teachings of Tesker to provide the wheels on pivoting beams in order to provide an improved suspension for the loader.

6. Claims 13-15 and 18-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Tesker as applied above, and further in view of Nelson (3,786,888).

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The combination of Kim and Tesker is discussed above but fails to show a planetary gear set.

Nelson teaches a pivoting suspension beam with a planetary gear set (11, 12; see Figure 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Kim and Tesker with the teachings of Nelson to provide the beam with a planetary gear set in order to provide proper gearing as required by the specific use of the loader.

Allowable Subject Matter

7. Claims 4-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Datta et al. shows a skid steer loader of interest. Narita et al. shows a skid steer loader of interest. Waggoner shows a pivoting beam suspension. Figura et al. shows a pivoting beam.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 571-272-6670. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'David Dunn', with a long horizontal line extending to the right.

David Dunn
Primary Examiner
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